

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

IN RE: Swift Staffing Holdings, LLC

Case no. 18-11616

Debtor(s)

Chapter 11

---

**UNITED STATES TRUSTEE'S RESPONSE TO  
EMERGENCY MOTION TO APPROVE  
MANAGEMENT/PAYROLL AGREEMENT  
[DKT. 2]**

---

Comes now, David W. Asbach, the Acting United States Trustee for Region 5 "UST," by and through undersigned counsel, and files this Response to the debtor's Emergency Motion to Approve Management/Payroll Agreement [DKT. NO. 2] and in support thereof will show unto the court as follows, to-wit:

I.

To the extent the emergency nature of this motion seeks to replace current management in this debtor, and obtain such relief on an expedited basis, prior to the filing of schedules, and adequate notice to all parties entitled to such information, absent any evidence that gross mismanagement, malfeasance, incompetence, or such other acts are occurring which would bring harm to the estate, such relief should be denied.

II.

Furthermore, should this court determine, at an interim hearing on this matter, that such cause exists to replace current management, as required under 11 U.S.C. § 1104(a)(1), the court should enter an order directing the U.S. Trustee to appoint a Chapter 11 trustee. The only remedy established by

Congress to replace management in a Chapter 11 case is the appointment of a Chapter 11 trustee pursuant to 11 U.S.C. § 1104(a).

III.

The United States Trustee reserves the right to respond and/or address any other issues at a hearing of this matter.

WHEREFORE, PREMISES CONSIDERED, the United States Trustee submits this Response to the debtor's Emergency Motion to Approve Management/Payroll Agreement [DKT. 2] and prays for general relief to which entitled in these premises.

Respectfully submitted,

David W. Asbach,  
Acting United States Trustee  
Region 5, Judicial Districts of  
Louisiana and Mississippi

by: /s/ Sammye S. Tharp  
Sammye S. Tharp,  
Trial Attorney

Sammye S. Tharp, Trial Attorney  
United States Trustee, Region 5  
U.S. Department of Justice  
501 East Court Street, Suite 6-430  
Jackson, MS 39201  
Telephone no. (601)965-4142  
Miss. Bar no. 10016

**CERTIFICATE OF SERVICE**

I, Sammye S. Tharp, do hereby certify that a true and exact copy of the foregoing response has been tendered to the individual(s) listed below by CM/ECF, this the 26th day of February, 2018.

Craig M. Geno, Esq.  
[cmgeno@cmgenolaw.com](mailto:cmgeno@cmgenolaw.com)

*/s/ Sammye S. Tharp*  
Sammye S. Tharp